IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 6.1.2005

CORAM

THE HONOURABLE MR. MARKANDEY KATJU, THE CHIEF JUSTICE

and

THE HONOURABLE MR. JUSTICE D. MURUGESAN

Writ Appeal No.4206 of 2004

Manakadu Elainger Nala Sports
Narpani Mandram
rep. by its President
Aruna Sundar
72-A, Kannankurichi Main Road,
Hasthampatti,
Salem - 636 007. .. Appellant/ Petitioner.

versus

1. State of Tamil Nadu
   rep. by the Commissioner
   of Police,
   Salem City
   Salem.

2. The Inspector of Police,
   Hasthampatti Police Station,
   Hasthampatti,
   Salem-636 007 .. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order made in Writ Petition No.32336 of 2004 dated 8.11.2004.

W.P.No.32336 of 2004:

Petition presented under Article 226 of Consitution of India, to issue a Writ of Mandamus forbearing the respondents or their subordinates from interfering with the lawful activities of the petitioner's association except under due process of law and allow this Writ Petition with costs.

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for appellant : Mr. R. Sudhakar

for respondents: Mr. P. S. Sivashanmugasundaram
Addl. Govt. Pleader

JUDGMENT

(Judgment of the Court was delivered by
The Honourable The Chief Justice)

This writ appeal has been filed against the impugned order of the learned single Judge dated 8.11.2004.

2. We heard the learned counsel for the parties.

3. The appellant is a Club where persons play Carrom and Chess, which is affiliated to Nehru Yuva Kendra, Ministry of Youth Affairs and Sports, Government of India and it is a registered Society.

4. The allegation in the petition was that the police personnel are interfering with the functioning of the Club and harassing the persons who go there as well as the organisers.

5. We asked the learned Additional Government Pleader as to why the police is interfering with the functioning of the Club. Today, learned Additional Government Pleader informed us that the appellant is

charging some amount of money from the persons who go to play Carrom and Chess in the Club.

6. This is a free and democratic country. All citizens are free to do whatever they like unless prohibited by law. Hence unless the respondents show which law has been violated for charging money by the Club from the persons who go to the Club for playing Carrom and Chess, the activity cannot be prohibited. When it is claimed that some act is illegal, the persons making such allegation must show which specific law is being violated. Merely making general allegation that the activity is illegal without specifying which law has been violated, is neither here nor there.

7. It is alleged by the respondents that the Public Gambling Act, 1867 is being violated. However Section 12 of the said Act says:

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" Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played."

8. Carrom and Chess certainly require skill and hence in view of Section 12, the Act itself has no application.

9. Thus, we are of the clear opinion that the respondents had no right to interfere with the functioning of the appellant. A mandamus is issued restraining the respondents from interfering with the functioning of the appellant or harassing the persons who go to play there or the organisers. Writ is issued as prayed for. The impugned order is set aside and the writ appeal is allowed. No costs. Consequently W.A.M.P.No.7972 of 2004 for injunction is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

vu

To
1. The Commissioner of Police,
Salem City, Salem.

2. The Inspector of Police,
Hasthampatti Police Station,
Hasthampatti, Salem-636 007.

+ 1 CC to the G.P. SR NO 1082

+ 1 CC to Mr.M.Sathyanarayanan, Advocate SR NO 1367

W.A.No.4206 of 2004

NG(CO)
GP

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